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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/773,476

02/06/2004

Hubert Beck

4452-589

7050

27799

7590

11/03/2005

COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE
SUITE 1210
NEW YORK, NY 10176

EXAMINER

SCHWARTZ, CHRISTOPHER P

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--|-------------------------------------|--|
| Office Action Summary | Application No. 10/773,476 | Applicant(s) BECK, HUBERT | |
| | Examiner Christopher P. Schwartz | Art Unit 3683 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Christopher P. Schwartz
CHRISTOPHER P. SCHWARTZ
PRIMARY EXAMINER

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/11/05 has been entered.
2. Claims 1,4-11 are pending in the application. Claims 2,3 have been canceled.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,4-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duckett in view of Gladieux.

Regarding claim 1 Duckett discloses a device similar to applicants. Note the equalization space provided by the envelope at 18.

Lacking is the connecting element provided in the rod guide 4 and a showing of the particular structure of the connecting element and snap ring.

However note the fill hole at 29 and the gas inlet, or connecting element, at 31.

As discussed previously such couplings are notoriously well known in the art for easy assembly and removal.

One having ordinary skill in the art at the time of the invention would have found it obvious to have modified the device of Duckett so that a connecting element could be provided in the rod guide 4 to connect the envelope 18 to a flow connection, as such a modification would amount to an obvious alternative connection arrangement to that of Duckett dependent upon the particular vehicle undercarriage or desired suspension arrangement.

The reference to Gladieux is relied upon to show one such well known coupling arrangement. Please see figures 2-6.

To have provided such a coupling in the device of Duckett would merely amount to an alternative equivalent type of coupling to connecting element shown by Duckett, but as modified above.

The limitations of claims 4,5,8 are considered to merely be an alternative arrangement to that of Duckett, as modified by Gladieux.

Regarding claim 6 to have provided a bushing, as claimed, in the device of Duckett as modified by Gladieux would have been obvious dependent upon the particular type of coupling arrangement selected. Note the support surface (not labeled) for the ring 40 in Gladieux on the coupling, considered to function the same as applicant's bushing. Also, because such couplings are notoriously well known in the art it would have been obvious simply to have used an alternate equivalent type of coupling

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comprising a bushing dependent upon such well known factors as cost, reliability and sealing capabilities. Please see the references cited, but not applied.

Regarding claim 7 note the seal at 70 in Gladieux.

The limitations of claims 9- 11 are considered to be met since the references as combined above would meet the claimed limitations.

Response to Arguments

5. Applicant's arguments filed 10/11/05 have been fully considered but they are not persuasive. The positions outlined in the previous Office Action under this section are maintained. The conclusions of obviousness maintained by the examiner are largely substantiated by the prior art of record in the file. Applicant's coupling arrangement is maintained to be an obvious alternative equivalent coupling arrangement to what is known and fairly suggested by the prior art of record.

Please see paragraph "6" of the prior Office Action.

Conclusion

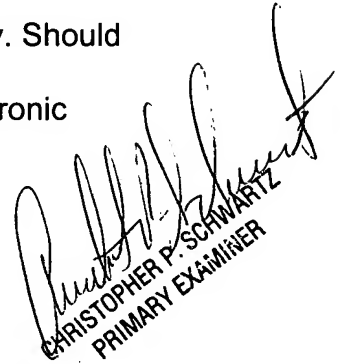
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Schwartz whose telephone number is 571-272-7123. The examiner can normally be reached on M-F 10:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim McClellan can be reached on 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cps
10/31/05


CHRISTOPHER P. SCHWARTZ
PRIMARY EXAMINER